

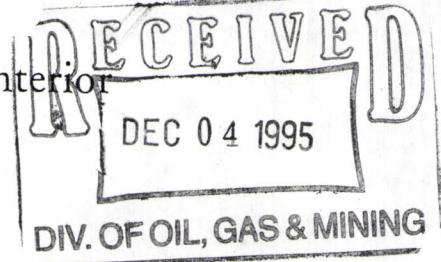
3045/092



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Salt Lake District Office
2370 South 2300 West
Salt Lake City, Utah 84119



IN REPLY REFER TO:

UTU 73979
3809
(UT-022)

DEC 01 1995

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

DECISION

MR. MIKE MCPHILOMY
AMERICAN AGGREGATE
20 LIND COURT
ORINDA, CALIFORNIA 94563

: 43 CFR 3809
: NOTICE OF NONCOMPLIANCE ISSUED
: RECLAMATION REQUIRED
: PLAN OF OPERATIONS REQUIRED
: BOND REQUIRED
:

You are the operator of record of a landscape stone quarry at Red Mountain, Tooele County, Utah. This quarry is located in T. 6 S., R.18 W., Sections 29 and 30.

By letter dated October 2, 1995, we requested that you either complete the following tasks or notify this office of your future plans.

1. A propane tank of about 100 gallons remains at the location where your trailer was parked. This needs to be removed.
2. 13 pallets remain at the most northerly work area. These need to be removed.
3. 4 rolls of wire remain at the most northerly work area. These need to be removed.
4. 1 pile of carpet scraps and a small pile of debris remain at the most northerly work area. These need to be removed.
5. A rut about 15 feet long near the most northerly work area needs to be filled in.

We have not received any correspondence from you. We conducted an inspection of your operation on November 28, 1995 and found that none of the requested reclamation has been conducted. We are therefore issuing a **NOTICE OF NONCOMPLIANCE** under the regulations found at 43 CFR 3809.3-2(b), for failure to reclaim areas disturbed by operations conducted under a notice.

In order to resolve this **NOTICE OF NONCOMPLIANCE** we require that

you address items 1 through 5 listed above within 60 days of your receipt of this notice, or within 60 days of when weather conditions permit access to the site. You are required to notify this office 48 hours before beginning reclamation activities so that we can ensure that access is available to the site and so that we may provide on-site supervision of your reclamation activities. Please call Phil Allard at (801) 977-4300 to provide this 48 hour notice.

We have received a copy of a decision issued to you by the House Range Resource Area Manager dated November 1, 1995, that establishes a duration of three years for your record of noncompliance established under case file UTU-72865. Because you have established a record of noncompliance, we will require that you file a Plan of Operations for your Red Mountain Quarry. Our regulatory authority for this requirement is found at 43 CFR 3809.3-2(e). You can conduct no activity except that required in items 1 through 5 above until we have approved your Plan of Operations and you have posted a bond for 100% of the cost of reclamation of your activities. This plan approval and bonding requirement were established as matters of BLM national policy in Washington Office Instruction Memoranda 90-582 and 90-582, Change 1.

Because we still believe that the material that you have removed from the Red Mountain Quarry is common variety, we will not process your Plan of Operations until we have completed a mining claim validity examination focused on making a common variety determination, or you establish an escrow account and agree to place in that account an amount equal to the sales price of the material removed from the quarry. Funds will remain in this escrow account until such time as the common variety issue is resolved. Our authority for this requirement is found in Washington Office Instruction Memorandum 92-290.

You have the right to appeal this decision to the Utah State Director, Bureau of Land Management, in accordance with 43 CFR 3809.4. If you exercise this right, your appeal, accompanied by a statement of reasons and any arguments you wish to present which would justify reversal or modification of the decision, must be filed in writing at this office within 30 days after the date of this decision. This decision will remain in effect during appeal unless a written request for a stay is granted.

/s/ Margaret Wyatt

Margaret Wyatt
Pony Express Area Manager

cc:

Utah State Office (921)
✓ D. Wayne Hedberg, UDOGM
Rody Cox, House Range Resource Area